

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16212
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On January 11, 2002, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1992 and 1994 through 1999 in the total amount of \$7,013.

On March 9, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has not provided anything further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer had wages reported to the [Redacted]. The Bureau sent the taxpayer a letter asking her if she had a filing requirement with the state of Idaho. The taxpayer responded to the Bureau's letter that returns would be filed within a week. The week passed and no returns were received. The Bureau obtained additional information from [Redacted] and determined the taxpayer did have a requirement to file Idaho income tax returns. The Bureau prepared returns for the taxpayer and sent her a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination and submitted Idaho income tax returns for the taxable years 1991 through 1999. The Bureau reviewed the taxpayer's returns and determined the 1991, 1992, and 1999 returns were acceptable. The Bureau notified the taxpayer of its acceptance of the 1991, 1992, and 1999 returns and told her why the remaining returns

could not be accepted as submitted. The Bureau corrected the taxpayer's returns and sent copies of the corrected returns for the taxpayer to approve. The taxpayer did not approve or respond to the corrected returns. The Bureau then referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving her two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent the taxpayer a follow-up letter but still no response came from the taxpayer. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer provided the Bureau with income tax returns for the taxable years 1991 through 1999. Of those returns, the 1993 through 1997 years showed refunds that were applied to the following year's tax. However, Idaho Code section 63-3072 states that a claim for credit or refund must be made within three years from the due date of the return. The due date for the taxpayer's 1997 return was April 15, 1998. The taxpayer did not make a claim for credit, for any of the returns submitted, until March 11, 2002, well past the three-year statute. Therefore, the Tax Commission cannot allow the carryover of the excess tax the taxpayer reported on her 1994 through 1998 returns.

Since the taxpayer's carryover refunds cannot be allowed, the resulting change to the taxpayer's 1995 through 1997 returns is a tax deficiency. The change also created refunds for the years 1993 and 1994 that cannot be issued because the taxpayer's claim was not made within the statute of limitations. (Idaho Code section 63-3072.)

Idaho Code sections 63-3045 and 63-3046 provide for the addition of interest and penalty to a deficiency in tax. Since the taxpayer's 1995 through 1998 returns resulted in deficiencies in the amount of tax paid, the Tax Commission added interest and penalty to the amount the taxpayer owed.

The Bureau reviewed the taxpayer's returns for 1991, 1992, and 1999. The Bureau found those returns acceptable and subsequently cancelled the Notice of Deficiency Determination pertaining to the years 1992 and 1999. The Tax Commission reviewed the Bureau's decision and agreed with the Bureau that the 1992 and 1999 Notice of Deficiency Determination should be cancelled or withdrawn.

WHEREFORE, the Notice of Deficiency Determination dated January 11, 2002, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>REFUND</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1993	\$0	\$ 0	\$ 0	\$ 0	\$ 0
1994	0	0	0	0	0
1995		178	45	95	318
1996		183	46	82	311
1997		172	43	63	278
1998		181	45	52	<u>278</u>
				TOTAL DUE	<u>\$1,185</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
